

#10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Date: February 3, 2004

Yevgeniy Eugene Shteyn

Examiner: Krisna Lim

Serial No.: 09/635,549

Art Unit: 2153

Filed: August 10, 2000

Atty Docket No.: US000209

For: TOPICAL SERVICE PROVIDES CONTEXT
INFORMATION FOR A HOME NETWORKCERTIFICATE OF FACSIMILECommissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
Attn: Examiner Krisna LimI HEREBY CERTIFY THAT THIS CORRESPONDENCE
IS BEING SENT VIA FACSIMILE TO THE US PATENT
OFFICE TO EXAMINER KRISNA LIM AT FACSIMILE
NUMBER (703) 872-9308 ON THE DATE INDICATED
BELOW.

Shannon Verboort

Date of Deposit: February 3, 2004

BRIEF BEFORE THE BOARD OF APPEALS

This is an appeal from a Final Rejection dated December 15, 2003. A Notice of Appeal was received by the Patent Office on January 21, 2004.

REAL PARTY IN INTEREST

The real party in interest is Philips Electronics North America Corporation.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-16 remain in the application and are presented in attached Appendix A.

No claims are allowed.

Page 1 of 9 BRIEF BEFORE THE BOARD OF APPEALS
Serial No. 09/635,549

Claims 1-16 stand as finally rejected under 35 U.S.C. 102(a) as being anticipated by Allan (EP 1 017 206).

STATUS OF AMENDMENTS

Amendments to claims 1- 3, 5, 7-8, 11, 13, and 15-16 were made in Appellant's Response to the Office Action Dated April 25, 2003. Amendments to claims 6, 7, and 9 were made, and claim 5 was cancelled, in Appellant's Response to the Office Action Dated October 29, 2003, but the amendments were not entered. (The claims in the Appendix contain the claims after the amendments made in the Response to the Office Action Dated April 25, 2003.)

The rejections of the claims, for reasons explained below, are clearly erroneous.

SUMMARY OF INVENTION

The present invention is directed to a system for assisting users in finding context-related information for a consumer apparatus. The association of a URL or a unique identifier therefor with the apparatus enables a user to immediately retrieve context information, about, for example, how to use a consumer appliance, warranty program, etc. As explained in the specification:

Note that the ... garbage can, the DVD player, the blender, and the motorcycle itself now has become, in the perception of the user, a topical server. The topical server supplies content information about the apparatus, about its context of its usage. Another way of looking at the invention is that the apparatus has become an icon as if it were part of a graphical user-interface (GUI). Causing the apparatus or its proxy to submit a request based on the URL is similar to clicking an icon on a GUI, the icon being some sort of a graphical representation or metaphor of the documents or application or service associated with it. In the invention, the apparatus is the icon. Accordingly, the user interaction with the networked environment has become highly intuitive. The external service and the apparatus are intuitively associated with each other.

(Page 4, line 22 to page 5, line 1.)

ISSUES

1. Whether claims 1-16 would be unpatentable under 35 U.S.C. 102(a) as being anticipated by Allan (EP 1 017 206)?

GROUPING OF CLAIMS

Claims 1-16 stand as finally rejected under 35 U.S.C. 102(a) as being anticipated by Allan (EP 1 017 206). The claims do not stand or fall together.

ARGUMENT

Claims 1-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Allan (EP 1 017 206). Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). The rejections based on the Allan reference are clearly erroneous because the reference does not disclose all limitations as recited in the claims, as explained below.

Allan Does Not Disclose the Claimed URL or Identifier Therefor

The Examiner cites col. 1, lines 32-33 in Allan as disclosing a URL or an identifier therefore associated with the apparatus. The cited passage discloses the assignment of a URL to the apparatus for identification of the apparatus on the network. This differs fundamentally from the claimed URL or identifier, which is associated with the apparatus "for initiating retrieval of data from a server

under control of a predetermined URL or an identifier therefore." In Allan, the assignment of the address to the apparatus does not enable the apparatus to retrieve content from a remote server, as claimed. The Examiner's rejection would require the apparatus to retrieve data from itself, ignoring the recited limitation of "retrieval of data from a server." Because the cited passage in Allan does not relate to an address for a server apart from the apparatus itself, the rejection is clearly erroneous.

Allan Does Not Disclose Content on Context of Usage of a Consumer Apparatus

For unexplained reasons, the Examiner considers that the data flowing to the devices considered to be consumer apparatuses represent content. In the art, content is widely considered information that is presented to a user through an interface so that it may be perceived and used by a user. Data types commonly displayed are text, audio, images, video, or combinations of the foregoing. Appellant has not found the word *content* anywhere in Allan. Allan does not describe the nature of any data that flows to the devices considered to be consumer apparatuses or give any examples. Notably, the data or data streams to the apparatuses can be many things other than content. For example, the data could be or represent software downloads to the apparatuses, control signals, operational status, or monitoring data, database items for storage on the apparatuses, or transactional data. Allan's focus on network infrastructure simply does not entail consideration of the specific nature of data pushed through the network to the apparatuses.

Assuming for the sake of argument that content is disclosed in Allan, claim 1 also calls for the retrieval of "data representing content information about the *context of usage* of the consumer apparatus." Although the Examiner considers Allan to disclose "data representing content information about the context of usage of the apparatus," the Examiner has not disclosed where any such teaching is specifically found in Allan. Therefore, the Office Action does not comply with MPEP § 707.07(d) which requires grounds for a rejection to be "fully and clearly stated." This shortcoming noted to the Examiner in Appellant's Amendment and Response filed December 5, 2003. In the Advisory Action dated December 15, 2003, the Examiner responded:

[T]he examiner respectfully disagrees because every elements [sic] of the claimed [sic] are clearly cited by the examiner in the office action.... [that] the citation may not recite the same phrase or languages; however, the broader the claim, the broader the rejection would be. Frankly, the applicant is advised to take a close look at the claimed language, for example, claim 1. In this claim it is nothing more than just retrieving data (content) information from a server [sic] using URL, and such feature is clearly taught by the reference. Allen [sic], clearly disclosed the use of single or unique internet address to send or to receive information in the network [sic]."

Contrary to the Examiner's assertion, Appellant is not merely claiming retrieval of data from a URL using a server. Full patentable weight must be given to each word in a claim. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ("[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art"). The Examiner's comments above disregard this governing principle because they do not address the claim limitation of *context of usage* of a consumer apparatus.

That Allan does not disclose content for context of usage is not surprising: Allan provides network infrastructure and does not focus on the nature of data passed through the infrastructure. In contrast, the claimed invention is directed to a system for assisting users in finding context-related information for an apparatus.

The specification gives various examples of context of usage related to certain consumer apparatuses, including a garbage can, DVD players, a blender, and a motorcycle. (See, e.g., pages 3-4.) For example, the association of a URL with an apparatus enables a user to immediately receive context information, about, for example, how to use a consumer appliance, warranty program, etc.

The specification encapsulates the meaning of context of usage:

Note that the ... garbage can, the DVD player, the blender, and the motorcycle itself now has become, in the perception of the user, a topical server. The topical server supplies content information about the apparatus, about its context of its usage. Another way of looking at the invention is that the apparatus has become an icon as if it were part of a graphical user-interface (GUI). Causing the apparatus or its proxy to submit a request based on the URL is similar to clicking an icon on a GUI, the icon being some sort of a graphical representation or metaphor of the documents or application or service associated with it. In the invention, the apparatus is the icon. Accordingly, the user interaction with the networked environment has become highly intuitive. The external service and the apparatus are intuitively associated with each other.

(Page 4, line 22 to page 5, line 1.)

In view of the foregoing distinctions on a (1) predetermined URL and/or (2) identifier and/or of content on context of usage, claim 1 and directly and indirectly dependent claims 2-4 are patentably distinct over Allan, and the rejections should be reversed as clearly erroneous.

Claims 5-16 directly or indirectly recite the limitations of a (1) predetermined URL or identifier therefor and/or (2) content on context of usage and are patentable for at least the same reasons as given above for claim 1. Further, the Examiner has not identified other distinguishing limitations recited in the claims.

Allan Does Not Disclose That the Claimed Consumer Apparatus is Responsive to User-Input

Assuming for the sake of argument that Allan did disclose consumer apparatus from which content on context of usage could be retrieved from a server under control of a predetermined URL (or identifier therefore) associated with the apparatus, other limitations are missing from the prior art. In particular, claim recites that the apparatus is responsive to "user-input for initiating retrieval of data." The Examiner considers Allan to disclose this limitation and cites for this assertion the figures, particularly, Fig. 4, and col. 1, lines 28-29 and col. 2 lines 34-36. However, the figures and cited passages do not mention users on any user interaction with a consumer apparatus. Therefore, the recited limitations are not found in the cited prior art. For this reason alone, the rejections of claims 1-16, which all recite the same or similar limitations, are clearly erroneous.

Other Patentable Distinctions

Regarding claims 2-3 and 5-16, Allan does not disclose a URL or identifier as claimed, as noted above. Nor does Allan disclose storage of such a URL or

identifier on the home network or the apparatus. Therefore, the recited combinations are patentably distinct over the cited art.

Regarding claims 14-16, the Examiner has not identified any disclosure in Allan corresponding to "creating a database of the type per user." Therefore, a prima facie rejection of these claims has not been made and the rejections are clearly erroneous.

Regarding claims 4, and 11-12, the Examiner has not identified in Allan any remote control device. The Examiner notes that Allan discloses a TV, but even if we assume that a remote TV inherently includes a remote, there is no disclosure that the remote includes a "key dedicated to initiating, via the apparatus, retrieval of data" The passage in Allan cited by the Examiner merely states that the home network has access to the "outside world." This clearly is not anticipatory of the recited limitations. The rejection of claims is therefore clearly erroneous and should be reversed for at least this reason.

Claims 5-10 disclose a proxy device. The proxy device of Allan is not disclosed to represent a consumer device in the manner claimed for the same reasons given above that the consumer apparatuses of Allan do not conform to the limitations of the claims.

Appellant notes that in the Advisory Action, the Examiner declined to enter amended claim 6 on grounds of changed scope. This is puzzling because claim 6 was simply being amended to recite the limitations of its base claim 5, which was being cancelled. Therefore, this amendment does not change the scope of the

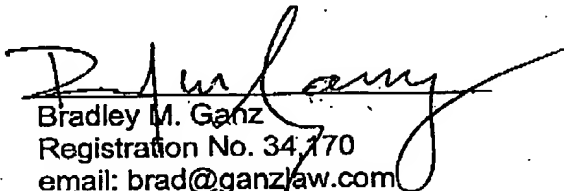
claim and should have been entered. Nevertheless, in view of the patentable distinctions noted above, Appellant does not challenge the lack of entry.

CONCLUSION

For one or more of the reasons set forth above, the Board is respectfully requested to reverse the Examiner's rejection of all claims 1-16 and to confirm patentability thereof.

Respectfully submitted,

Date: February 3, 2004


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Appendix A

1. A consumer apparatus responsive to a user-input for initiating retrieval of data from a server under control of a predetermined URL or an identifier therefor associated with the apparatus, the data representing content information about the context of usage of the apparatus.
2. The apparatus of claim 1, the consumer apparatus configured for use and inclusion on a home network and having an Internet-access functionality through the home network, the predetermined URL or identifier therefor being stored on the home network.
3. The apparatus of claim 1, comprising a memory for storage of the URL or identifier therefor.
4. The apparatus of claim 1, wherein:
 - the apparatus has a remote control device; and
 - the device has a dedicated button for initiating the retrieval of the data.
5. A proxy device for representing an apparatus on a home network, wherein the proxy is responsive to a user-input for initiating, via a gateway, retrieval of data from a remote server under control of a predetermined URL or identifier therefor associated with the apparatus represented, the URL or identifier therefor being stored on the home network.

6. The proxy of claim 5, wherein the data represents content information about the context of usage of the apparatus.
7. The proxy of claim 5, storing the URL or identifier therefor.
8. The proxy of claim 7, wherein the URL or identifier therefor is programmable.
9. The proxy of claim 5, responsive to a wireless signal.
10. The proxy of claim 9, for transmitting a further signal with a unique identifier upon receiving the signal.
11. A remote control device for control of a consumer apparatus included on a home network, wherein:
 - the device has a key dedicated to initiating, via the apparatus, retrieval of data from a server based on a predetermined URL or identifier therefor associated with the apparatus and stored on the home network; and
 - the data represents content information specific to the context of usage of the apparatus.

12. The device of claim 11, storing an identifier representative of a URL of a file at the server.

13. A method of enabling a service provider to provide a service via the Internet to a user of a consumer apparatus having a predetermined identifier associated therewith, the identifier being stored on a home network including the apparatus, the method comprising:

- enabling the user to initiate via the apparatus sending of a request with the identifier representative of a type of the apparatus to a server on the Internet; and
- based on the identifier, the server initiating user access to a web page with content information about a context of using the apparatus.

14. The method of claim 13, comprising creating a data base of the type per user.

15. The method of claim 13, comprising creating a data base of URLs or identifiers therefor per user.

16. The method of claim 13, comprising providing the apparatus with a URL or other identifier for a web page.

Appendix A

1. A consumer apparatus responsive to a user-input for initiating retrieval of data from a server under control of a predetermined URL or an identifier therefor associated with the apparatus, the data representing content information about the context of usage of the apparatus.
2. The apparatus of claim 1, the consumer apparatus configured for use and inclusion on a home network and having an Internet-access functionality through the home network, the predetermined URL or identifier therefor being stored on the home network.
3. The apparatus of claim 1, comprising a memory for storage of the URL or identifier therefor.
4. The apparatus of claim 1, wherein:
 - the apparatus has a remote control device; and
 - the device has a dedicated button for initiating the retrieval of the data.
5. A proxy device for representing an apparatus on a home network, wherein the proxy is responsive to a user-input for initiating, via a gateway, retrieval of data from a remote server under control of a predetermined URL or identifier therefor associated with the apparatus represented, the URL or identifier therefor being stored on the home network.

6. The proxy of claim 5, wherein the data represents content information about the context of usage of the apparatus.
7. The proxy of claim 5, storing the URL or identifier therefor.
8. The proxy of claim 7, wherein the URL or identifier therefor is programmable.
9. The proxy of claim 5, responsive to a wireless signal.
10. The proxy of claim 9, for transmitting a further signal with a unique identifier upon receiving the signal.
11. A remote control device for control of a consumer apparatus included on a home network, wherein:
 - the device has a key dedicated to initiating, via the apparatus, retrieval of data from a server based on a predetermined URL or identifier therefor associated with the apparatus and stored on the home network; and
 - the data represents content information specific to the context of usage of the apparatus.

12. The device of claim 11, storing an identifier representative of a URL of a file at the server.

13. A method of enabling a service provider to provide a service via the Internet to a user of a consumer apparatus having a predetermined identifier associated therewith, the identifier being stored on a home network including the apparatus, the method comprising:

- enabling the user to initiate via the apparatus sending of a request with the identifier representative of a type of the apparatus to a server on the Internet; and
- based on the identifier, the server initiating user access to a web page with content information about a context of using the apparatus.

14. The method of claim 13, comprising creating a data base of the type per user.

15. The method of claim 13, comprising creating a data base of URLs or identifiers therefor per user.

16. The method of claim 13, comprising providing the apparatus with a URL or other identifier for a web page.

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Date February 3, 2004
To Krisna Lim
From Bradley M. Ganz
Re Serial No.09/635,549; Our file: US000209
Tel
Fax (703) 872-9306
Pages 39 + cover sheet

Dear Examiner Lim:

Please find attached the following documents in connection with the above-identified application:

- Transmittal;
- Fee transmittal (in duplicate); and
- Appeal Brief and Appendix A (in triplicate).

Sincerely,

Bradley M. Ganz

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PTO/SB/21 (08-03)

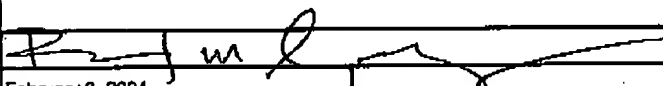
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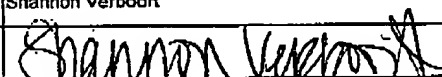
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/635,549
	Filing Date	August 10, 2000
	First Named Inventor	Yevgeny Eugene Shteyn
	Art Unit	2153
	Examiner Name	Krisna Lim
	Attorney Docket Number	US000209
Total Number of Pages in This Submission		99

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Other Enclosure(s) (please identify below):
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Firm or Individual name	Bradley M. Ganz
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Date	February 3, 2004

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FEE TRANSMITTAL
for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 330.00**Complete If Known**

Application Number	09/635,649
Filing Date	August 10, 2000
First Named Inventor	Yevgeniy Eugene Shteyn
Examiner Name	Krisna Lim
Art Unit	2153
Attorney Docket No.	US000209

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number
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50-1001

Bradley M. Ganz

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☐ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 180	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$) **2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent	20** =	X	
Multiple Dependent	3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	330.00
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

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SUBTOTAL (3) (\$) 330.00**SUBMITTED BY**

Name (Print/Type) Bradley M. Ganz

Registration No. 34,170

(Attorney/Agent)

Telephone 503-224-2713

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Date February 3, 2004

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